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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/667,329
Filing Date: September 23, 2003
Appellant(s): HANE, JOHN

Dalei Dong
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 04/23/2010 appealing from the Office action mailed 11/02/2009.

1. *Real Party Interest*

A statement identifying the real party in interest is contained in the brief.

2. *Related Appeals and Interferences*

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

3. *Status of the Claims*

The statement of the status of the claims contained in the brief is correct.

4. *Status of Amendments After Final*

The Appellant's statement of the status of amendments contained in the brief is correct.

5. *Summary of Claimed Subject Matter*

The summary of claimed subject matter contained in the brief is correct.

6. *Ground of Rejection to be Reviewed on Appeal*

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

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7. Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

8. Evidence Relied Upon

USPN 6289389	Kikinis	September 11, 2001
USPN 20020106086	Kamiya	August 8, 2002

9. Ground of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

- 1. Claims 24-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikinis (US Patent 6,289,389) in view of Kamiya et al. 2002/0106086 A1.**

Regarding claims 24, 25 and 26 Kikinis discloses a method for requesting and securely receiving data from the Internet (**col. 2 lines 54-67 and fig. 3**), said method comprising the steps of:

receiving a request for data (**col. 1, lines 5-10 and fig. 3, data requested by a user**);

collecting data in response to said request (**col. 1, lines 5-10, data gathering site**);

packetizing said collected data into at least two sets of data packets (**col. 6, lines 30-47, encrypted data and decryption key**);

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wherein a first set of data packets comprises encrypted data (**col. 6, lines 30-47, encrypted data**) and a second set of data packets comprises a key for decoding said encrypted data (**col. 6, lines 30-47, decryption key**) selecting and addressing said first set of data packets for transmission via a first channel of a transmission mode at a first frequency, and automatically attaching a first address to said first set of data packets (**see col. 3 lines 46-56, col. 3 lines 7-9, and col. 6, lines 30-47, through modem**);

selecting and addressing said second set of data packets for transmission via a second channel of the transmission mode at a second frequency, wherein the second frequency is different from the first frequency (**see col. 3 lines 46-56, col. 3 lines 7-9, and col. 6, lines 30-47, through digital link to satellite**);

transmitting said first set of data packets via said first channel (**col. 6, lines 30-47, through modem**); and

transmitting said second set of data packets via said second channel (**col. 6, lines 30-47, through digital link to satellite**).

- Kikinis fails to disclose first data packets for transmission at a first transmission time and a second set of data packets for transmission at a second transmission time wherein the second transmission time is different from the first transmission time.
- However transmitting a encrypted content data packet with first address over a first path via a first channel of a transmission mode and transmitting a key that is used to encrypt the content and has a second address via a different path channel

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of the transmission mode with a transmission time that is different from the first eg. in hours or days apart, is disclosed by Kamiya et al. (**see par. 0023-0025 and 0006-0012**). Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention was made to employ the teachings within the system of Kikinis because they are analogous in secure content distribution in different transmission channel. One would have been obvious to do so because it would prevent hackers from intercepting the transmitted data and find all the information (key and content) in one single interception and retrieve data and would make it difficult to hackers to intrude transmitted data.

Regarding claims 27, 29 and 31, Kikinis teaches the method, wherein the transmission mode is a satellite delivery system comprised of a network processing center with an associated provider antenna and at least one subscriber terminal with an associated subscriber antenna (**see figs. 1-3**).

Regarding claims 28, 30 and 32, Kikinis teaches the method wherein the satellite delivery system further comprises a satellite (**see figs. 1-3**).

10. *Response to Argument*

Examiner's response to Argument A:

Section 1:

The appellant's argument regarding Kikinis teaching away since a second reference (Kamiya et al.) is combined for teaching "first data packets for transmission at a first transmission time and a second set of data packets for transmission at a second transmission time wherein the second transmission time is different from the first

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transmission time” is not persuasive because transmitting key packet and content packet in two channels via different times adds additional security to what Kikinis is already teaching, as sufficient motivation to combine is provided in the Final office action.

Kikinis teaches providing security to data communication systems by sending decrypting key packets and encrypted information packets in different channels, i.e., satellite link and land-link/Internet modem 17, to destination user client PC 19 (**see fig. 1 and col. 6 lines 28-lines 42**).

Kamiya teaches providing security to data delivery system by transmitting content packets and key packets in different times, e.g., hours or days apart, over different routes (**see par. 0023-0025 and 0006-0012**). The different routes (multipoint delivery) are also routes that are physically separate, i.e., satellite 3 and internet network 4 (**see par. fig. 0007 and fig. 1 or fig. 3**). Kamiya also teaches transmitting digital data content packet over a high-speed multipoint delivery network 3, i.e., satellite system physically separate from the internet wide area network route 4 (**see par. 75 and fig. 1**). Kamiya further teaches that transmitting encryption key packets over the wide area network route 4 that is physically separate from the satellite route (**par. 82**). Kamiya different routes and different times transmission is for security, in case a hacker intercepts one of the packets, for example content packets, the system would make it difficult to the hacker by sending the key in a different time unknown to the hacker and would not use the content without the decryption key (see motivation of the Final action). Therefore Kikinis does not teach away and Kamiya adds additional security to Kikinis system.

Section 2:

Regarding argument "the Office relies on Kamiya's discussion of in case that key information and content information are transmitted over the same physical network, content information and key information are not delivered simultaneously. See e.g., par. [0023]" argument is not persuasive because the routes are also physically separate routes (see e.g. Kamiya par. [0007]) that discloses:

“... The upstream system generates a plurality of pieces of key information specific to destinations and/or to the digital data to be delivered. These pieces of key information are delivered to the corresponding destination routes different from those that carry the encrypted digital data, or content. All delivery routes are made different or separate from one another either physically or temporally, i.e., by staggering the times of delivery. ...”

Kamiya teaches providing security to data delivery system by transmitting content packets and key packets in different times, e.g., hours or days apart, over different routes (see par. 0023-0025 and 0006-0012). The different routes (multipoint delivery) are also routes that are physically separate, i.e., satellite 3 and internet network 4 (see par. fig. 0007 and fig. 1). Kamiya also teaches transmitting digital data content packet over a high-speed multipoint delivery network 3, i.e., satellite system physically separate from the internet wide area network route 4 (see par. 75 and fig. 1). Kamiya further teaches that transmitting encryption key packets over the wide area network route 4 that is physically separate from the satellite route (par. 82).

Examiner's response to Argument B:

Regarding argument the 103 rejection over Kikinis and Kamiya is improper because the combination fails to make obvious each and every claim limitation as recited by the Appellant, argument is not persuasive because every single limitation of the claims are reasonably address and satisfied in light of the appellant's disclosure and sufficient motivation to combine is provided.

Examiner's response to Argument C:

Regarding argument "The office relies on a two reference combination to address the independent claim 24. Each of the applied references is different, alone or in any combination, to properly address each and every claim element as recited by Appellant. Even if the two disparate references could be combined, as suggested by the Office, the resulting combination would nevertheless fail to meet the various embodiments of the claimed inventions," Argument is certainly not persuasive because of the following reasons:

Appellant's invention, at least, (see on fig. 3 elements 66-70 and col. 10 lines 19-24), discloses transmitting packets (encrypted data and key data) over two different transmission modes/channels, i.e., Internet and Satellite transmission mode/channel. The Office provided a reasonable and proper rejection consistent with Appellant's disclosure. As explained above Kikinis also teaches the two transmission modes, as satellite channel and land-line/Internet channel to deliver encrypted data and decrypting key to the client's destination PC (see **fig. 1 and col. 6 lines 28-lines 42**). Kamiya also teaches transmitting digital data content packet over a high-speed multipoint delivery network 3, i.e., satellite

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system having **broader bandwidth** and physically separate from the internet wide area network route 4 (**see par. 75 and fig. 1**). Kamiya further teaches that transmitting encryption key packets over the wide area network route 4 that is physically separate from the satellite route (**par. 82**). Therefore combination of Kikinis and Kamiya do disclose the embodiments of the claimed invention.

Section 1:

Regarding argument "The Kikinis reference not only fails to suggest two transmission times and channels of a transmission mode but teaches against such feature," argument is not persuasive because Kikinis teaches the two transmission modes as satellite channel and land-line/Internet channel to deliver encrypted data and decrypting key to the client's destination PC (**see fig. 1 and col. 6 lines 28-lines 42**). Kikinis further discloses (**on col. 2 lines 54-67**) a data delivery system to transmit data to a user, a first link adapted to transmit data via a first delivery path and a second link adapted to transmit data via a second delivery path to the user; and **the second delivery path having a broader bandwidth than the first delivery path. Col. 6 lines 22-38 of Kikinis discloses the satellite transmission being faster than the land-line. The two different paths are not having same frequency.** Kikinis discloses a data delivery system, comprising a server connected to data sources and adapted to transmit data to a user; a first link from the server adapted to transmit data to the user via a first delivery path; a second link from the server adapted to transmit data via a second delivery path to the user,.... For each data entity to be transmitted to the user, the transmission control

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routines select either the first path or the second path for transmission, based on size of the data entity and preprogrammed criteria. In a preferred embodiment the first path is a **land-based path**, and the second path is a satellite transmission **path having a broader bandwidth/frequency than the other path** (see col. 2 lines 54-67). Kikinis (on col. 3 lines 47-57) discloses the *land-based path being land based internet* connection through a public-switched telephone network. Kikinis further discloses encrypting the data and transmitting a deciphering key to user by a separate path than the encrypted data is sent (see col. 3 lines 7-9). Kikinis prepares encrypted data packet and key packet and delivers to requesting user device address over different paths (see col. 6 lines 28-47). **Kikinis discloses one of the paths have significantly higher bandwidth/frequency than the other path** (see col. 3 lines 53-55 and abstract). Therefore the two channels of the two transmission mode at different frequency are taught by Kikinis. Kamiya is cited for teaching transmitting encrypted content data packet with first address over a first path via a first channel of a transmission mode and transmitting a key that is used to encrypt the content and has a second address via a different path channel of the transmission mode with a transmission time that is different from the first, eg. in hours or days apart, (**fig. 3, 006-0012, par. 75 and 82**).

Regarding argument Kikinis for the user being connected to both routes at the same time, argument is not persuasive because Kamiya is combined for teaching transmitting key packet and content packet in two channels via different times that adds additional security to what Kikinis is already teaching, as sufficient motivation to combine is provided in the Final office action.

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Regarding argument no motivation to combine, argument is not persuasive because sufficient motivation to combine is provided as explained above and/or in the previous Final office action. Moreover, transmitting data packets and a decryption key at different times does not destroy the teachings of Kikinis but adds additional security.

Section 2:

Regarding argument Kikinis for teaching against a combination with Kamiya, argument is not persuasive because Kikinis teaches providing security to data communication systems by sending decrypting key packets and encrypted information packets in different channels, i.e., satellite link and land-link/internet modem 17, to destination user client PC 19 (see **fig. 1 and col. 6 lines 28-lines 42**).

Kamiya teaches providing security to data delivery system by transmitting content packets and key packets in different times, e.g., hours or days apart, over different routes (see **par. 0023-0025 and 0006-0012**). The different routes (multipoint delivery) are also routes that are physically separate, i.e., satellite 3 and internet network 4 (see **par. fig. 0007 and fig. 1 or fig. 3**). Kamiya also teaches transmitting digital data content packet over a high-speed multipoint delivery network 3, i.e., satellite system physically separate from the internet wide area network route 4 (see **par. 75 and fig. 1**). Kamiya further teaches that transmitting encryption key packets over the wide area network route 4 that is physically separate from the satellite route (**par. 82**). Kamiya transmission is for security, in case a hacker intercepts one of the packets, for example content packets, the system would make it difficult to the hacker by sending the key in a different time unknown to the hacker and would not use the content without the decryption key (see

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motivation of the Final action). Therefore Kikinis does not teach away and Kamiya adds additional security to Kikinis system.

Section 3:

Regarding argument the Office failure to consider the claimed invention as a whole, argument is not persuasive because the Office provided a reasonable interpretation in light of the disclosure considering the claimed invention as a whole and considered the applied prior arts entirely.

Section 4:

Regarding argument one ordinary skill in the art would have no reason to combine Kikinis and Kamiya, argument is certainly not persuasive as the examiner explained above and/or sufficient motivation to combine is provided in the Final office action.

Examiner's response to Argument D:

The appellant's arguments for claims 25 are similar as the arguments for claim 24 that the claims also recite similar limitations and arguments are not persuasive based on same argument as claim 24.

Examiner's response to Argument E:

The appellant's arguments for claims 26 are similar as the arguments for claim 24 that the claims also recite similar limitations and arguments are not persuasive based on same argument as claim 24.

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Examiner's response to Argument F:

Regarding argument the references failure to teach dependent claims 27, 29, and 31, argument is not persuasive because Kikinis (see figs. 1-3) teaches the transmission mode satellite delivery system comprised of a network processing center with an associated provider antenna and at least one subscriber terminal with an associated subscriber antenna.

Regarding argument the references failure to teach dependent claims 28, 30 and 32, argument is not persuasive because Kikinis teaches the method wherein the satellite delivery system further comprises a satellite (**see figs. 1-3; see element 37**).

11. *Related Proceeding(s)*

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of the examiner's answer.

12. *Conclusion*

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

July 1, 2010

Conferees:

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